

Appln No. 10/649,874
Amdt date April 15, 2008
Reply to Office action of January 15, 2008

REMARKS/ARGUMENTS

Claims 1-18 and 32-43 remain in the present application, of which claims 1, 3, 4, 8, 9, 13, 17, 36 and 42 are independent. Claims 1, 13, 17, 32, 36 and 42 have been amended herein. Applicant thanks the Examiner for the thorough examination of the application and also for allowing claims 3, 4 and 8-10 and indicating that claims 17, 18, 36, 37, 42 and 43 include allowable subject matter. Applicant respectfully requests reconsideration and allowance of claims 1, 2, 5-7, 11-16, 32-35 and 38-41 in addition to maintaining the allowance/allowability of claims 3, 4, 8-10, 17, 18, 36, 37, 42 and 43.

I. Claims Rejected Under 35 U.S.C. §102(e)

Claims 1, 2, 5-7, 11-16, 32-35 and 38-41 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Sitrick (U.S. Patent No. 7,157,638).

Applicant respectfully traverses as follows.

Claims 1, 2, 5-7 and 11-12

Independent claim 1 now recites, "[a] musical performance self-training apparatus for supporting a player by displaying a performance instruction information on a display means, wherein the display means is further adapted to display music to be performed that is divided into plural units, each unit including a predetermined size of musical tone information of the music to be performed, the apparatus comprising: a unit designating means for designating at least one unit from the plural units, and a performance instruction generating means for generating a performance instruction information that is displayed . . ." (emphasis added).

In rejecting these claims, the Examiner on page 2 of the Office Action contends that Sitrick discloses a musical performance self-training apparatus comprising "a unit designating means (715) for designating a unit from the plural units (105) . . .," and cites Col. 17, lines 15-24 of Sitrick. However, in FIG. 7 of Sitrick, the reference numeral (105) indicates a workstation for displaying at least musical scores, and the apparatus (715) connected to the workstation (105) is

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a master music communication controller (715) having a user input (711) that provides input interface.

The Examiner also cites Col. 17, lines 25-43 of Sitrick as allegedly disclosing "the units (105) constitute a music to be performed and each unit includes a predetermined size of musical tone information, and a performance instruction information generating means for generating the performance instruction information based on the musical tone information of the unit which is designated by the unit designating means." However, Applicant does not see any disclosure for the "performance instruction generation means" in the above cited portion of Sitrick.

Here, Sitrick merely discloses that "the master music communications controller (715) provides for additional functionality including virtual performance mode, wherein the input interface . . . provide one or more of musical compositions data for display, transformation information, display requests, user individual performance data, and wherein the workstations respond to the master music communications controller to couple their individual performance data and receive back the combined virtual performance data," and that "the work stations (105) access the music database storage means (720) that provides the data for the requested music composition via the master controller (715). The master controller (715) displays both the requested music composition as well as user interface communication for the music communication system to be displayed on either a dedicated display (716) or on one of the workstations (105) as designated by the master controller (715)."

Therefore, on lines 15 to 43, column 17 of Sitrick, there is no description of the unit designating means or the performance instruction information generating means of claim 1. The unit according to the claimed embodiment of claim 1 is one of plural units divided from the music to be performed and includes a predetermined size of musical tone information, and is not a workstation (105) as described in Sitrick. Further, the cited portion of Sitrick does not disclose generating a performance instruction information that is displayed with the designated at least one unit.

Therefore, Sitrick does not disclose at least the above referenced elements of claim 1.

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To anticipate a claim, however, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Therefore, all claim elements, and their limitations, must be found in the prior art reference to maintain a rejection based on 35 U.S.C. §102.

Since Sitrick does not disclose at least some of the elements of claim 1, claim 1 is not anticipated by Sitrick. Therefore, Applicant requests that the rejection of claim 1 over Sitrick be withdrawn and that this claim be allowed.

Since claims 2, 5-7 and 11-12 depend, directly or indirectly, from claim 1, they each incorporate all the terms and limitations of claim 1 in addition to other limitations, which further patentably distinguish claims 2, 5-7 and 11-12 over the cited references. While the Examiner appears to contend that Sitrick discloses some of the limitations of these dependent claims, Applicant does not agree as Applicant does not see such disclosure in the portions of Sitrick cited by the Examiner.

By way of example, the Examiner contends presumably in reference to claim 2 that Sitrick discloses "a lesson menu generating means for generating an image information of a lesson menu which has a score of the music to be played and the units corresponding to the score, then output the image information to the display means, wherein the unit designating means designates a unit automatically . . ." (emphasis added), and cites Col. 19, lines 3-6, 16-24; Col. 19, line 63-Col. 20, line 7; and Col. 26, line 26 - Col. 27, line 41.

However, none of the cited sections discloses or even remotely suggests a "lesson menu generating means for generating an image information of a lesson menu . . ." as recited in claim 2. In fact, all of the cited sections appear to be related to performance evaluation.

The Examiner further contends, presumably in reference to claim 11, that "Sitrick discloses wherein units having the same content are managed collectively as the same unit," and cites Col. 26, line 26-Col. 27, line 41. However, while this cited section appears to describe that

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a plurality of workstations is synchronized by a synchronization signal from the master workstations, there appears to be no disclosure that units having the same content are managed collectively as the same unit.

The Examiner further contends, presumably in reference to claim 5, that "Sitrick discloses an automatic and manual mode (column 10, lines 5-19), which allows control over the progress of the lesson distribution. However, the cited section of Sitrick does not disclose "the unit designating means being constructed so as to be able to operate selectively in an automatic mode in which designation of the unit is automatically performed according to predetermined progress, or in a manual mode in which an optional unit can be designated by manual operation."

In view of the above, Applicant requests that the rejection of claims 2, 5-7 and 11-12 be withdrawn and that these claims be allowed.

Claims 13-16, 32-35 and 38-41

Independent claim 13 recites, in a relevant portion,

A musical performance self-training apparatus for supporting a player by displaying a performance instruction information on a display means, wherein the display means is further adapted to display music to be performed that is divided into plural units, each unit including a predetermined size of musical tone information of the music to be performed, the apparatus comprising:

a unit designating means for designating at least one unit from the plural units, and

a performance instruction information generating means for generating a performance instruction information that is displayed on the display means with the designated at least one unit based on the musical tone information of the at least one unit which is designated by the unit designating means. . . (emphasis added).

For at least the reasons that are substantially the same as those given above in reference to claim 1, claim 13 is not anticipated by Sitrick. Therefore, Applicant requests that the rejection of claim 13 be withdrawn and that this claim be allowed.

Since claims 14-16, 32-35 and 38-41 depend, directly or indirectly, from claim 13, they each incorporate all the terms and limitations of claim 13 in addition to other limitations, which

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together further patentably distinguish them over the cited references. Therefore, Applicant requests that the rejection of claims 14-16, 32-35 and 38-41 be withdrawn and that these claims be allowed.

II. Allowable Subject Matter

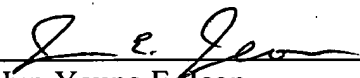
Claims 3, 4 and 8-10 are allowed.

Claims 17-18, 36, 37, 42 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As claims 17, 36 and 42 are now rewritten in independent form, Applicant requests that claims 17-18, 36, 37, 42 and 43 be allowed.

III. Concluding Remarks

In view of the foregoing amendments and remarks, Applicant earnestly solicits a timely issuance of a Notice of Allowance with claims 1-18 and 32-43. If there are any remaining issues that can be addressed over the telephone, the Examiner is cordially invited to call Applicant's attorney at the number listed below.

Respectfully submitted,
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